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June 1, 2016

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

In the matter of: FCC 16-5
PS Docket 15-94
PS Docket 15-91

Madame Secretary:

This response to the Notice of Proposed Rulemaking (NPRM) relative to changes in the Emergency Alert System (EAS) is submitted in my dual capacities as Executive Director of the New Hampshire Association of Broadcasters and Chairman of the New Hampshire State Emergency Communications Committee (since 1992).

As this NPRM is extremely wide ranging, I will refer to only certain sections as numbered in the rulemaking dated January 29, 2016.

2. In general, I have no objection to the adoption of more accurate EAS designations, streamlining the State Plan process in an online system, or adopting a standard template for State Plans.

   I am concerned, however, about rule changes that would allow Public Service Announcements (PSAs) to utilize the EAS header codes and alerting signals. This has the potential to alarm and confuse the public, create mistakes, and further the "cry wolf" effect. Every broadcast station in America tests the system weekly. The National Weather Service liberally activates EAS as needed. I can't imagine any viewer or listener is not already familiar with the alerting signal. They don't need PSAs to explain EAS. There have been accidental triggers of the system when stations use recordings of old EAS tests or alerts in news stories or parodies. Why would this relaxation of the rules not cause more of the same?

Footnote 3. While the role of the State Emergency Communications Committee

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(SECC) is explained, there is no specific reference to its primary task: writing a State EAS Plan.

15. Current EAS designations include Primary Entry Point (PEP) stations. The concept is fine but the distribution of PEP stations has proved challenging. The PEP station closest to New Hampshire is WBZ AM (1030 kHz), a 50,000 watt clear channel station in Boston, 64 miles from Concord, our state capital. While stations along the southern border of NH and MA are able to receive a usable over-the-air signal, the vast majority of stations cannot.

    There is a PEP station in Portland, Maine, 5,000 watt WGAN (560 kHz). It is about 71 miles from Concord. The combined distance and low power output make this an usable PEP option for New Hampshire.

    Two 50,000 watt stations in New York State are designated as PEP stations: WABC (770 kHz) in New York City and WHAM in Rochester (1180 kHz), approximately 214 miles and 306 miles from Concord respectively. Clearly both are too far away to be reliable.

    Our SECC has added National Public Radio's "squawk" channel to our State Plan as a source of Presidential alerts, but the PEP system by itself is inadequate. While our State EAS Plan designates WBZ AM as our sole National Primary (NP) station, it is well understood that signal reception is unreliable at best so we do not designate any PEP station.

16. Our State Plan designates the NHEAS Network as our State Primary (SP). This network is licensed to, and managed by, the State of New Hampshire and consists of the State Police microwave/UHF communications system. We designate eight outlets as State Relay (SR) stations (7 radio, 1 TV), all of which monitor the State Police microwave network. All other stations and cable franchises are designated as Local Primary (LP) stations and monitor one of the eight SRs.

19. The current designations do not limit our SECC's ability to assign roles and responsibilities. This paragraph of the NPRM contains eight different

questions; that is probably an indication of how difficult it will be to implement standardized terminology nationwide.

20. It is unnecessary to designate a particular station as the Amber Alert Primary station. Our State Primary is, in fact, a leg of the NH State Police microwave/ UHF communications system and under our State Plan Amber Alerts must originate with them (rather than a broadcast station).

21. Because New Hampshire is a geographically small state we don't use the LP designation at all. Our "daisy chain" allows all stations to receive alerts from the originating source within just one or two relays.

22. I definitely see no need for additional EAS designations! Under our State Plan all stations monitor either the State Police microwave system, the National Weather Service, National Public Radio, or another broadcast station. None of our cable headends are designated as key EAS sources. The NPRM asks if entities other than broadcasters should be monitored by EAS participants; the answer is they already do by virtue of being connected to the FEMA aggregator via an Internet connection.

25. This section discusses the pros and cons of creating a standardized State EAS Plan Filing Interface (SEPFI). While this would undoubtedly make it easier for Commission staff to retrieve meaningful operational data more readily, I find it hard to imagine how a template will accommodate so many different state plans. There truly is no "one size fits all." For example, in entering data into the SEPFI, would a given state have to fill out a particular box, even if that criteria doesn't apply to the state plan, in order to move on to the next step of data entry?

26. I acknowledge the virtue of a system that would allow a certain degree of automatic updates. However, formatting and uploading data – particularly the first time – will take far more than 20 hours. This paragraph of the NPRM refers to possible legal fees that SECCs might incur in order to ensure compliance. This is very worrisome because our SECC consists of volunteers. There is no operational budget and certainly no funding available for vetting updated EAS

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Plans. There is a suggestion that failure to file with the FCC could open up a SECC to legal liability. I don't believe that is a wise course to follow when dealing with volunteers.

28. Frankly, I am more concerned with the thoroughness of my State EAS Plan than I am with how consistent it is with other states. It strikes me that the need for standardization is at the national, not local or state, level. Our resources are necessarily limited by our volunteer status. We work with broadcasters and state emergency officials but have no budget from either. Whatever changes the Commission makes will require time and effort to comply with.

30. I have no objection to an online filing template as long as the data entered is not accessible to the general public.

31. The nature of the data in the New Hampshire State Plan is not a threat to national security. But the congregate data from all 50 states would be an attractive target for hackers or others who might wish to penetrate national security. Our State EAS Plan includes phone numbers, frequencies and transmitter locations that we treat as confidential.

32. I have no opinion on whether a National Advisory Committee should be reestablished. During my 24 years as SECC Chairman, though, I have often wondered why the FCC rarely contacts me with updates or concerns. Aside from an occasional phone call from Bonnie Gay (usually to update the mailing list), SECC chairs almost never hear directly from the FCC. I think ongoing communication from headquarters to the troops in the field should be more important. A National Advisory Committee would be just like the SECCs – a well-meaning body with no legal authority.

33. The NPRM notes that some State Plans are lacking in "active cable service provider participation in SECCs." In New Hampshire the major cable player is Comcast and they have been quite involved (a Comcast employee is the SECC vice chairman). But smaller providers have not been easy to identify or get involved. There is no statewide trade organization comparable to the NH Association of Broadcasters representing the cable providers.

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I am not familiar with the *EAS Deployment Order* referred to in Footnote 114 and am quite sure I have never seen it. This is an example of the lack of communication from the FCC referred to in paragraph 32 above.

35. The NPRM recognizes that "*many EAS Participants utilized the satellite-based National Public Radio (NPR) News Advisory Channel (Squawk Channel) to receive the Presidential Alert*." New Hampshire is one of those states. Since our PEP coverage is inadequate, NPR's Squawk Channel is our primary path for Presidential activations, followed by the Internet-based IPAWS aggregator path. These paths are not written into the current State Plan but will be during the next revision.

37. The NPRM proposes that State Plans include "*a clear role for Local Area EAS Plans, should they continue to be necessary*." Because New Hampshire is a small state we currently don't use local plans at all; everything is built around activation at the county level.

40. The NPRM questions the "*need for a consistent, uniform governance structure for SECCs nationwide*." My lengthy experience as SECC chairman in New Hampshire has often provided an inside look at SECCs in my neighboring New England states. I believe there are too many varied organizational structures and levels of volunteer commitment to make a uniform governance structure feasible.

41. As stated in #37 above, New Hampshire currently has no LECCs or Local Area EAS plans because of the relatively small geographic area of our state.

43. The NPRM proposes that State EAS Plans "*contain a comprehensive listing of procedures by which state emergency management officials, local NWS forecasting stations, and EAS participant personnel transmit emergency information*…" Since SECCs have no legal authority, it would be impossible for them to dictate any matters of policy to state officials or NWS personnel. I believe this would be unenforceable busywork.

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44. For reasons stated in #15 above, New Hampshire is not currently able to meet the "*requirement to monitor two sources for the Presidential Alert without recourse to such satellite-based communications technologies*." PEP is not a viable option here.

    The NPRM questions whether the EMnet satellite service is a viable option. It does not address the question of who would pay for EMnet. We considered it several years ago and rejected it because of the lack of ongoing state or broadcaster EAS budget.

45. I am unaware of any effort by the State of New Hampshire to utilize social media to push emergency information to the public other than the Transportation Department's use of Twitter alerts in conjunction with major highway accidents. It also maintains a network of centrally-controlled digital message boards that can be individually changed to reflect construction delays, crash alerts, weather conditions or Amber Alerts. I don't know if the message boards are driven by CAP formatting or whether they must be typed by a live person to correspond with the number of available display characters.

48. As stated in #37 and #41 above, New Hampshire doesn't use geographically-based operational areas at anything other than the county level. If service areas were to be uniformly identified by the Commission, we could revisit this concept.

50. The NPRM suggests that participants should not be allowed to monitor the same key EAS sources in order to avoid single points of failure. While laudable in concept, we don't have the infrastructure to accomplish that in New Hampshire. As stated earlier, there is inadequate PEP coverage to start with. National Public Radio's "squawk channel" is currently employed as a source of Presidential alerts. If our stations were able to count their IP connection to FEMA's IPAWS aggregator as a monitoring source, we could meet the proposed Requirement, though I am not familiar with any rule that currently allows that.

55. This section of the NPRM strikes me as busywork. The Commission didn't require any particular scripting of messages when the Emergency Broadcast

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System transitioned to the Emergency Alert System in the mid-1990s. It seems pointless to require stations to follow a particular script now nearly 20 years later. Many stations run their Required Weekly Test with no text at all. Stations know their current obligation during a Required Monthly Test – broadcast it and log it.

As for the schedule and origination source of Required Monthly Tests, our state distributes a test schedule each December to cover the following year. It serves as a reminder for the originators but also provides stations with a way to know whether or not they are missing EAS traffic. We do not include this test schedule in the State Plan simply because it changes annually, but we do publish it on the NHAB website. In addition, FEMA sends a weekly test, New Hampshire State Police issue a daily test, and the National Weather Service issues a test each Wednesday to let our stations check their equipment for readiness.

56. I don't believe the State EAS Plans need to include "*the language of the notification to be provided during the test (e.g., audio voiceovers, video crawls*)" unless the Commission decides to require this nationally. Without such a mandate this provision would not be particularly useful here.

57. This paragraph questions whether the public is more likely to receive emergency alerts from smartphones or technology other than traditional broadcast media. That is a decision only the federal government can make. It sounds like the Commission is weighing whether or not radio and television should continue to be the primary paths for public warnings in an age of rapidly evolving personal communication technologies. This question is central because it makes little sense to make widespread changes to Part 11 if, going forward, the FCC feels broadcasting is less vital to public warning than it used to be. New Hampshire doesn't currently utilize WEA technology as part of EAS.

58. In general I don't see a need for live code tests. I am glad a waiver process exists, and think it should continue, but I am not sold on the wisdom of using live codes or recordings because substantial anecdotal evidence exists that such uses have triggered down-line EAS equipment. I recognize that in much larger

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states there may be some benefit to live code testing.

65. For the same reason as #58 above I am not in favor of allowing the EAS activation tones to be used in public service announcements. Sections 11.45 and 11.46 of the Part 11 rules explicitly forbid use of the tones in any setting other than a test or actual activation. I see no reason to deviate from this policy.

66. This paragraph speaks of "*ensuring that the public is familiar with the EAS and understands its public benefits*." After 20 years of nationwide use, how can the public not recognize EAS tones and not comprehend the benefits of the system? If anything the public has become jaded by constant testing. EAS is constantly tested by every broadcast and cable entity in America. There doesn't seem to be any additional value in using PSAs to reinforce what they already see and hear.

67. This paragraph acknowledges the likelihood of public confusion if live code tests are conducted using EAS activation tones. The NPRM suggests participants that wish to air live code PSAs be required to coordinate with other EAS participants, state and local authorities and other first responder organizations. What form would this coordination take? If Participant A wants to run a PSA and cross-town Participant B doesn't, what entity breaks the stalemate? What if police and fire agencies are too small to have operators standing by to answer phone calls from concerned listeners and viewers? How often would the PSAs have to air to be considered effective? What would happen if a real weather situation or civil emergency developed near the time of the PSA? This is just a bad idea.

68. The NPRM acknowledges that "*the WEA Attention Signal is a loud, attention-grabbing, two-tone audio signal that uses frequencies and sounds identical to the distinctive and familiar Attention Signal used by the EAS*." I would submit that a veteran broadcaster would have difficulty distinguishing the difference…almost certainly the average citizen won't be able to. Excessive use of anything waters down its effectiveness and this is true of the EAS attention signal.

71. The suggestion of color coding various levels of EAS television warnings seems like a waste of time. You can't expect the general public to memorize what the

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different colors mean. In the days following the 9-11 attacks on America a five-level color coded scale was used to alert the public of the terrorist threat level. The federal government eventually eliminated this system.

72-74. These paragraphs broach the unresolved issue of EAS and its effectiveness among populations that don't speak English. New Hampshire is one of the least ethnically-diverse states. Yet in Manchester, the state's largest city with an estimated population of 110,000 people, there are 84 languages spoken by students enrolled in the schools. Data from October 2015 provided by the Manchester School District indicates that 90% of the English learners speak Spanish (983), Arabic (207) or Nepali (165). Rounding out the top ten languages are Vietnamese, Maay-Maay, Bosnian, French, Swahili, Portuguese and Urdu. Manchester has one licensed TV station, 3 AMs and 4 FMs – all are programmed entirely in English.

The idea of any of those stations having the resources to effectively translate any EAS activations into other languages, in a timely way, seems an impossible task given that all of the radio stations are automated for a significant portion of the broadcast day. I believe the only feasible way to institute multi-lingual EAS translation would be at the originator level, not at the end-user broadcaster level. That creates a major headache for the officials authorized to originate EAS in our State Plan. There are some cities and towns in New Hampshire with no significant minority population of any kind. Even if a translation software option were widely available, how would the state decide during an unfolding emergency which languages to translate into? What kind of confusion would there be among English-only speaking people who hear foreign languages?

77. Force tuning has been an issue in New Hampshire, especially during EAS activations from the National Weather Service. Two of our commercial television stations employ professional, AMS-certified meteorologists on staff and are very good about interrupting normal programming during unusual or sudden weather events. There have been situations where cable TV providers interrupt all channels simultaneously with an EAS alert which, in effect, interrupts the TV station's live coverage of the event. Upon investigation this

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usually boils down to a matter of economics – it is less expensive for a cable franchise to transmit across all stations simultaneously than to install selective override equipment on each channel.

Further, even Required Monthly Tests have been problematic. If, because of its monitoring assignments, a TV station receives an EAS test or activation before a cable system headend, it is possible for the activation to air on the TV station, then air again moments later via the cable system. This is highly aggravating to the TV station and annoying to viewers. While we have not experienced instances of viewer televisions locking up for extended periods of time, we have not found the cable companies particularly receptive to the idea of allowing TV stations to opt out of cable-system overrides.

77. NHAB supports NAB's position requesting that the Commission "*permit local television stations to opt out of cable system-wide overrides*…"

83. There can be differences between EAS messages on various platforms. One example is Amber Alerts. Currently cable providers are only able to provide full-screen slides, or video crawls, indicating a child is missing but not provide any other particulars in a video format. They can air the audio that originated at State Police but have no way to translate a text message into video script because the headends usually operate unattended. Even our most prominent commercial TV station needs to obtain a written copy of the Amber Alert message so an employee can keyboard the text into a character generator. The State of New Hampshire is not currently able to generate CAP-compliant EAS messages.

103. This paragraph addresses unauthorized alerts and refers to the national transition to CAP alerts. New Hampshire recently experienced a worrisome incident. On the afternoon of March 8, 2016, radio, TV and cable stations in Hillsborough County received a Required Weekly Test from an unknown originator. Upon investigation it turned out that the alert came from the Bedford, NH police department. Bedford is one of two municipalities in the state that have been certified by FEMA to access the IPAWS aggregator. A well-meaning radio technician was checking out the department's new

capability and accidentally triggered EAS not realizing where the message would go or what impact it might have. NH State Police, NH Emergency Management and the SECC were unaware that these municipalities were so certified and equipped. Had the March 8th incident been coded as something other than a RWT, Bedford Police could easily have taken over the airwaves of a substantial number of broadcast outlets. They are not trained in EAS procedures and are unaware of the specifics of our State Plan. This incident suggests a need for better coordination between FEMA and individual states so that everyone is on the same page as to what capabilities exist.

108. This paragraph states that "*if EAS participants cannot effectively secure the system through voluntary mechanisms, the Commission must explore regulatory solutions to achieve EAS security*." While I don't disagree with this statement, I urge the Commission to remember that everything beyond Presidential level participation in EAS is voluntary. In the current economic climate many stations are unmanned during much of the broadcast week, so EAS has to be an automatic function. Many stations tend to set up EAS devices and forget about them. Broadcasters are not emergency officials; they simply provide a delivery path from the government to the general public. Many broadcasters aren't too concerned with best practices – they see that as the FCC's job.

109. Requiring stations to report false alerts may prove a difficult exercise. There is a presumption that all stations will immediately know a false alert has occurred, which isn't necessarily the case. Unattended stations may well have a contract engineer who checks EAS logs on a regular basis <u>but not daily</u>. It could be several days before an anomaly is noticed if the station is normally unmanned. I have found it exceedingly difficult to track backwards to figure out how a given station handled a particular test or activation if no one was in the building in the first place.

111. I am not opposed to annual certification as described in the NPRM, though I am sure smaller stations will resent the additional burden of having to certify best practices and compliance. Whatever the Commission decides need to be clearly codified in the Part 11 rules.

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128. This section deals with *false alert reporting*, which unfortunately isn't specifically defined. For example, if an operator attempts to issue a Required Weekly Test but, due to human error, is unable to properly generate the tone burst, does that constitute a false alert? There may well have been a verbal message to listeners that an EAS Test was about to occur. On a hot summer day when a series of severe storms are racing across a geographic area, it is common for NOAA to issue so many weather alerts that one literally bumps another off the air before the EAS equipment can complete airing the first message. Is that to be considered a false alert? Does the commission really wish to have every licensee report every false start and incidence of human error?

129. Assuming the definition of false reporting is spelled out in detail, this paragraph addresses how soon a licensee should be obligated to report such an incident to the FCC. The proposal of "*within thirty minutes of identification*" seems unrealistically short. For example, in the oft-referred to Bobby Bones case the false message came from syndicated, satellite-delivered programming. It is entirely possible that small stations won't even have a live person in the building at the time. It could be hours or days before a designated employee checks EAS logs and discovers an anomaly. Giving them 30 minutes to respond, several days after the fact, seems pointless.

130. This paragraph deals with the estimated expense of mandatory reporting. Many stations don't employ fulltime, salaried or hourly engineers. Preparing the kind of report described may involve bringing in a contract engineer at a premium rate specifically to complete this task.

132. In theory, requiring EAS participants to report instances "*when their equipment causes, contributes to, or participates in a lockout*" is a good idea. However, unattended stations may not know when their equipment has done so until well after the fact. Almost certainly a 15-minute reporting window is not workable.

134. This paragraph states that "*EAS Protocol does not currently include a method to ensure that an alert received by EAS equipment was originated by an*

authorized source." New Hampshire learned this first-hand earlier this year when a newly authorized municipality tried out its IPAWS software, setting off an EAS activation in Hillsborough County where stations didn't recognize the originator (see paragraph 103 above).

135. If some state and local CAP systems aren't using CAP digital signatures, change the rules and require them to do so.

138. This paragraph discusses the merits of implementing a Virtual Red Envelope system to enhance authentication procedures. While a good idea, it leaves unattended stations entirely out of the picture. If no humans are on duty in a broadcast station or cable franchise, then there is no one to manually check an authentication code.

I also have concerns about how this would work in areas with overlapping Required Monthly Test jurisdictions? For example New Hampshire is a small state and many of our member stations have audiences in Vermont, Maine and Massachusetts (not to mention Canada). Each of those states issues its own monthly tests. Would our member stations have to have Virtual Red Envelopes for each state involving multiple validation codes?

141. I absolutely endorse the thinking of this paragraph that suggests including a year parameter in the time stamp to ensure against future airings of old EAS activations.

158. This paragraph seeks comment on whether to extend security procedures to all EAS stakeholders. The NPRM suggests exempting those participants that qualify as small businesses under Small Business Administration standards. In that case, the majority of New Hampshire stations will be exempt. Why bother to collect any data at all if it isn't going to be collected from everyone?

161. Perhaps the definition of *small entities* should be those facilities with a live person on duty, or perhaps five fulltime employees or less.

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163. As I read this paragraph describing the management of a Centralized Configuration, it made me wonder if the Commission is considering a whole new architecture as piecemeal rule changes take EAS beyond the broadcast realm into other forms of digital communication. If a new system is necessary, design it from scratch and ditch EAS altogether.

176. This section discusses the traditional daisy-chain architecture of EAS and the newly-implemented IPAWS system. I believe there is a widespread lack of understanding of IPAWS within the broadcast community; is it a replacement or an augmentation? I'm not sure the heritage daisy-chain system is flexible enough for constant patching and fixing. Maybe it is time to start from scratch with an entirely new system.

180. Since the Commission's response to this NPRM is likely to be wide-ranging, I expect the six month deadline for revision of State EAS Plans is too ambitious. I believe nine months would be more appropriate.

Thank you very much for the opportunity to be heard on a wide range of EAS-related issues.

Sincerely,

Ed Brouder

Ed Brouder
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SECC Chair